

Murray Code Enforcement Board Minutes July 10, 2007

The Murray Code Enforcement Board met in a special session on July 10, 2007 at 5:00 p.m. in the council chambers of City Hall located at 104 North 5th Street.

Board Members Present: Matt Jennings, Mitzi Key, Thomas Rottinghaus, and Sam Underwood

Board Members Absent: Ben Blakely

Others Present: David Roberts, Dannetta Cossey, Jimmy Potts, Keith Covey, Max Weaver, Mark Blankenship, and audience.

Chairman Thomas Rottinghaus called the meeting to order and had an attendance roll call.

Approve Minutes from June 5, 2007 Meeting: Chairman Rottinghaus asked for approval of the June 5, 2007 minutes. **Mitzi Key made a motion to approve the June 5, 2007 minutes. Sam Underwood seconded the motion and it carried by a 4-0 voice vote.**

Public Hearing – Max Weaver: Chairman Rottinghaus explained to Mr. Weaver that he would be given an ample chance to say anything he wished and time to present his case. Also, that Mr. Weaver would be afforded all his fundamental rights as regarded by KRS for administrative hearings. Chairman Rottinghaus explained that the burden of establishing whether or not a violation existed is the responsibility of the city to prove. Chairman Rottinghaus continued to state that Mr. Weaver would receive tonight's ruling within seven days and he may appeal that order to the Calloway County District Court within thirty days. As this time, Chairman Rottinghaus called the public hearing to order. Mark Blankenship the attorney for Mr. Weaver stated that his client wished to continue the hearing for 30 days. Mr. Blankenship stated that part of the violation had been taken care of and more work is planned and due to health issues Mr. Weaver is asking for more time. Chairman Rottinghaus asked if the work is expected to be completed within 30 days. Mr. Blankenship answered yes. Chairman Rottinghaus explained that if an extension of time to complete violations is what they wanted then normally the hearing would take place and they would listen to all evidence and then make a decision on how much additional time to give for the violation to be completed and if not completed by the time given then it is up to the Board whether or not to impose a fine. Mr. Blankenship said he and his client, Max Weaver agreed to go ahead with the hearing. Chairman Rottinghaus called City Representative, Keith Covey forward and asked him to state his name and position with the City. Chairman Rottinghaus asked if any Board member had any type of relationship with Mr. Weaver that would cause them not to be able to rule on the case. All board members answered no. Officer Covey stated on May 11, 2007 he made contact with Mr. Weaver and told him about the problems at the property and Mr. Weaver stated that he had health problems was going to the doctor often. Officer Covey continued to say that the tree down from a storm had been taken care of. However, on the west side of the property there is still a pile of limbs

from another tree. At this time, Chairman Rottinghaus swore Officer Covey in. Officer Covey submitted pictures for evidence. Chairman Rottinghaus asked when the photographs were taken and Officer Covey stated that Captain Potts had taken the photographs in the last day or so. Chairman Rottinghaus called Captain Potts forward and swore him in. Captain Potts said Mr. Weaver had made a lot of advancements on the violations but there is still a small area of vegetation on the west side that is not taken care of. Chairman Rottinghaus asked if Mr. Weaver has made the efforts that he said he would. Captain Potts answered yes. Chairman Rottinghaus called Max Weaver forward and swore him in. Mr. Weaver stated that he was guilty of the violations but got behind due to health reasons. Mr. Weaver stated that he felt he had made a lot of improvements but realized he still had more to do. Chairman Rottinghaus asked what the estimated time was to finish. Mr. Weaver stated he was sure in four weeks that he would have it completed. Chairman Rottinghaus asked Mr. Weaver if he wanted to ask either officer that testified any questions. Mr. Weaver answered no. Chairman Rottinghaus asked the officers if they had any questions for Mr. Weaver and both answered no. At this time, Chairman Rottinghaus closed the public hearing. **Sam Underwood made a motion ordering the Respondent, Max Weaver to correct the violation(s) within thirty days from the date of receipt of the order and no fine be imposed. Thomas Rottinghaus seconded the motion and it carried by a 4-0 roll call vote.**

Default Case – Tri Dinh: Chairman Rottinghaus called the default case to order and Dannetta Cossey read the case information. Captain Jimmy Potts came forward and was sworn in. Captain Potts stated that the first complaint came in on April 24, 2007 for the property at 1620 Miller for abandoned vehicles, garbage and rubbish, and the yard needed mowing. Captain Potts said, after issuing a warning, the two vehicles were moved and the yard mowed but since then the garbage still has not been removed, yard needs mowing again, all the rubbish is still there. At this time, Captain Potts submitted photographs as evidence for the property at 1620 Miller. Chairman Rottinghaus asked if the property was a single family dwelling. Captain Potts stated that it was a multi family dwelling. Chairman Rottinghaus asked when the citation was issued how long was given to come into compliance before the fine started. Captain Potts stated that the citation was issued on May 11, 2007 and given seven days to correct the violations. Chairman Rottinghaus stated that if the Board did find the Dinh's to be in violation then the fine would start on May 18, 2007 which would make a total of 54 days. Sam Underwood asked if it was Dinh's or the tenants who was responsible for putting the things in the yard. Captain Potts said he believed the tenants were the ones doing it but it's the responsibility of the landlord. Captain Potts said the property at 13th & Main is a set of apartments and that he received a complaint regarding rubbish and garbage at the back of the property and graffiti on the retaining wall. He stated that he found out that Rite-Aid was the owner of the retaining wall and contacted them and the graffiti was taken care of the next day. Captain Potts continued to say that a little of the garbage had been picked up and hauled off. He submitted photographs as evidence that showed the condition of the property on June 6, 2007 and also on July 10, 2007. Chairman Rottinghaus asked the date the citation was issued for this property. Captain Potts said one citation was issued on May 11, 2007 for all three properties. Mrs. Key asked if they had asked for more time to get the violations corrected. Captain Potts answered no. Mr. Jennings asked if the rubbish on the property today was the same rubbish at the beginning or

was it being cleaned up and the tenants trashing it again. Captain Potts said most of it was the same rubbish. Chairman Rottinghaus asked if the furniture, mattress, and couch had been removed. Captain Potts stated that it had been but it's now back on the property. Captain Potts stated that the property at 1612 College Farm Road was also on the same citation issued May 11, 2007 to get the property mowed and submitted photographs taken June 6, 2007 and July 10, 2007 which showed the grass still hasn't been mowed. Captain Potts said the windows have been torn out with plans of demolition for a month. Captain Potts submitted photographs as evidence. Mr. Rottinghaus asked if the property was to be demolished. Ms. Cossey stated that a demolition permit was issued on July 2, 2007 for the property at 1612 College Farm Road. Mr. Underwood asked if anyone was living in the house. Captain Potts answered no. Mr. Rottinghaus asked if the property owner was notified by certified mail or in person. Captain Potts said the citation was delivered and signed for in person. The Board began to deliberate. Chairman Rottinghaus stated that the fine for 54 days at \$100.00 per day would be \$16, 200.00 for all three properties. Mr. Jennings asked since the citation was for all three properties could the fine be for each property or did it need to be one fine for all three properties. After much discussion, the Board decided one citation was for all three properties so the fine imposed should be for all three properties. Mr. Underwood suggested that the Board impose a fine and give seven days to complete the violations and if not done then the fine will go the maximum. Mr. Rottinghaus suggested that the fine imposed be \$5,400.00. The Board continued to deliberate. **Thomas Rottinghaus made a motion ordering the Respondent, Tri Dinh to pay a civil fine to the City of Murray in the amount of \$3,325.00 by July 31, 2007 and to be in compliance of all violations at the properties of 1620 Miller and 13th & Main within seven (7) days from receipt of the order and the property at 1612 College Farm Road shall be demolished by July 31, 2007 or a signed contract from demolition company furnished to the Code Enforcement Officer with the date to be demolished. In the event that the violations are not corrected on or before the dates specified, then a citation for second offense shall be issued for each separate property with a maximum civil fine of \$250.00 per day per property continuing until the violations are corrected. Sam Underwood seconded the motion and it carried by a 4-0 roll call vote.**

Default Case – America's Servicing Company: Chairman Rottinghaus called the default case to order and Dannetta Cossey read the case information. Captain Jimmy Potts came forward and was sworn in. Captain Potts stated a complaint was received on April 20, 2007 regarding the yard needing mowed at 1600 Sycamore and that the property is in repossession and has burned. Captain Potts said Officer Patrick Morris contacted America's Servicing Company on May 10, 2007 and talked with them regarding the mowing of the property and advised them of the possible penalties. Captain Potts stated that they were issued a seven day warning to get the property mowed and on May 16, 2007 the property was mowed but hasn't been since so a citation was mailed to them on June 8, 2007. Captain Potts submitted photographs as evidence. Mr. Rottinghaus asked Captain Potts if he had a copy of the certified mail receipt. Ms. Cossey stated she did and gave it to Chairman Rottinghaus. Chairman Rottinghaus noted that the certified mail was signed for on June 11, 2007. Mr. Underwood stated when property owned by a bank is auctioned off at the court house door then all liens are cleared except for taxes so he didn't think attaching a lien would do any good. Mrs. Key asked what the maximum fine could be. Chairman

Rottinghaus stated that the maximum fine would be \$2,900.00. Mr. Rottinghaus asked David Roberts if the Board could put a stipulation in the order for the property not only to be mowed but excess grass raked up and for the property to be kept in that condition. Mr. Roberts answered yes. Captain Potts pointed out that on the bottom of the citation it states that property is to be kept mowed all summer and if not then the next violation will be a \$250.00 per day fine. **Thomas Rottinghaus made a motion ordering the Respondent, America's Servicing Company to pay a civil fine to the City of Murray in the amount of \$1,225.00 within ten (10) days from receipt of the order and shall comply with the Code of Ordinances by correcting the violation, raking and removing from property excessive grass clippings, limbs or loose brush within ten (10) days from receipt of the order and that the Respondent shall maintain the property to comply with the Code of Ordinances to reflect the surrounding neighborhood. Mitzi Key seconded the motion and it carried by a 4-0 roll call vote.**

There was discussion regarding property maintenance issues by Shelia Sullivan.

Being no further business, Sam Underwood made a motion to adjourn.

Chairman, Thomas Rottinghaus

Recording Secretary, Dannetta Cossey